

STATE OF MICHIGAN
COURT OF APPEALS

GARY MICHAEL PINKAFSKA,

Plaintiff-Appellee,

v

DEBORAH MARIE PINKAFSKA,

Defendant-Appellant.

UNPUBLISHED

May 2, 2000

No. 216338

Ottawa Circuit Court

LC No. 97-028120 DM

Before: Wilder, P.J., and Sawyer and Markey, JJ.

MEMORANDUM.

Defendant appeals as of right the judgment of divorce entered by the circuit court after a trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court abused its discretion in finding that money plaintiff received from joint accounts held with his father did not constitute marital property. Plaintiff's father died after plaintiff filed for divorce, but prior to trial.

In reviewing a divorce judgment, the appellate court must first review the trial court's findings of fact under the clearly erroneous standard. If the findings of fact are upheld, the court must decide whether the dispositive ruling was fair and equitable in light of those facts. A dispositional ruling is an exercise of discretion, and should be affirmed unless the appellate court is left with the firm conviction that the division was inequitable. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992).

Normally, property received by a married party as an inheritance, but kept separate from marital property, is deemed to be separate property not subject to distribution. *Dart v Dart*, 460 Mich 573, 585; 597 NW2d 82 (1999). If the other party contributed to the increase in value of the separate asset, a court can properly consider the property to be a marital asset. *Hanaway v Hanaway*, 208 Mich App 278, 293-294; 527 NW2d 792 (1995).

There is no showing that the trial court abused its discretion in finding that assets received from plaintiff's father were not part of the marital estate. Plaintiff did not receive the assets until several months before the divorce trial. While defendant did contribute to the father's care, there is no showing

that this obligated the father to compensate her. There is no showing that the distribution is inequitable. *Sparks, supra*.

Affirmed.

/s/ Kurtis T. Wilder
/s/ David H. Sawyer
/s/ Jane E. Markey